

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures--Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 4. Issuance of and Response to Complaints

§ 60065.16. Violations Subject to a Complaint; Issuance.

(a) A complaint may be issued if:

(1) The violation alleged arises under Part 5 of the Health and Safety Code, or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards;

(2) The state board has determined that the alleged violations is not a Class I violation that is subject to a citation under Title 13, California Code of Regulations, Article 5, section 60075.1, et seq.; and

(3) The penalty for each violation does not exceed \$25,000 for any day of violation and the total penalty for all violation's alleged in a complaint does not exceed \$300,000.

(b) A complaint shall include:

(1) The names of each respondent alleged to have committed a violation(s) covered under this article;

(2) A statement of the facts, in ordinary and concise language, that specifically identifies the statutes and/or rules alleged to have been violated and the acts or omissions of the respondents that constitute the alleged violation(s). The statement shall be specific enough to afford the named respondents notice and information in which to prepare a defense;

(3) A proposed penalty that complainant seeks for the alleged violations committed;

(4) Reference to these procedures, notice that a copy of the procedures are available from the ARB hearing office (the address and phone number of which shall be set forth), and notice that Chapter 5 (commencing with section 11500) of the Government Code is not applicable to these proceedings;

(5) Written notice to the respondent that, within 30 days from the date of service, it may respond to the allegations of the complaint and request a hearing. It shall also inform the respondent of the consequences of failing to respond by the applicable deadline;

(6) Written notice to the respondent that it has under the hearing procedures the right to counsel; and, if necessary, the right to an interpreter; or

(7) The address of the office issuing the complaint; the address to which payment of the proposed penalty may be sent; and the address of the hearing office to whom a request for a hearing shall be submitted.

(c) A complaint shall be served on the named respondent(s) by either personal service or certified mail.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 43028 and 43031(a), Part 5, Health and Safety Code; and Sections 60075.1, et seq., title 13, California Code of Regulations.

REFERENCE